



PATENT

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8-2-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT EXAMINING DIVISION

In re the Application of Gerhard J. Haas

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Serial No. 10/046,897

JUL 08 2003

Filed: Jan. 17, 2002

Art Unit 1651
Examiner Susan D. Coe

TECH CENTER 1600/2900

For: Hcp-Based Udder and Teat Dips and Washes

FURTHER REQUEST FOR RECONSIDERATION

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P.O. Box 1450
Alexandria, VA 22313 - 1450

S I R:

In response to the Supplement to Advisory Action mailed June 6, 2003, applicant respectfully submits herewith a Translation Certificate of Dr. Takeo Ohashi, president of Ohashi High Technology Corporation, New York, N.Y. In his Translation Certificate Dr. Ohashi translates the paragraph from Japanese Patent Application No. 01172332 that refers to the methods by which the herb can be administered to cattle.

By way of apology, it is recognized that the Examiner recommended that the entirety of the Japanese Application be retranslated by a certified translator. It is respectfully submitted that such an added expense is not requisite here. There is only one paragraph where the issue is whether there is a disclosure of a method of application that is

either washing or dipping, or of some method of administration that would make washing or dipping obvious to one of skill in the art. With regard to the remainder of the Japanese Application, it is acknowledged that it discloses *Humulus Lupulus* Linne, which is the plant commonly known by the name, hops. Thus, as the Japanese Application discloses hops extracts, and as all of the claims recite "washing or dipping said udders and teats [of cows] with an aqueous solution an active ingredient of which is a hop compound...", the only real issue appears to be the methods of administration of the extracts that are disclosed in the Japanese Application. As a consequence, it is submitted that the annexed certified translation of the paragraph relating to methods of administration should be sufficient to determine the applicability of the reference.¹

The translator's certified translation of the "administration" paragraph is:

"The method of giving it is either oral or non-oral administration. As non-oral administration, intramuscular, intra stomach, transdermal, nasal and vein administration can be used."

At the request of counsel, the translator was asked for a definition of the word "transdermal." He noted, "The word, transdermal, is used Interchangeably with transcutaneous. It means 'through the skin'. Examples of transdermal administration would be by syringe injection or the use of a medicated patch."

While there may always be some question as to precisely what any word means,² even or particularly a word in the English language,³ that is the nature of

¹ Moreover, much of the Japanese Application appears to be boilerplate, and to incur a standard charge of 30 cents per word for a translation of the entire document would cost a substantial amount of money.

² A leaned jurist once opined that words are a completely inadequate means of expressing ideas.

³ As an example, how often are the words "continual" (as rapping) and "continuous: (as a flat surface) misused?

language. Here the Japanese applicant used the word, transdermal, *i.e.*, through the skin. Certainly if he had meant washing or dipping he would have said so, as the Application obviously is meant to cover every possible variant that the author could imagine. The Translation Certificate gives as examples of transdermal administration, an injection with a hypodermic syringe, or a medicated patch. Neither of these methods teaches or suggests the simple expedients of washing or dipping.

Further, as pointed out in the Request for Reconsideration mailed May 18, 2003, the dosage of the herb is disclosed in the paragraph immediately preceding the "administration" paragraph that is the subject of the Translator's Certificate. That paragraph⁴ defines the daily dosage in terms of the weight of the cattle. Obviously, then, administration was not to be by washing or dipping, where the weight of the cow would be completely irrelevant to the concentration of the wash solution.

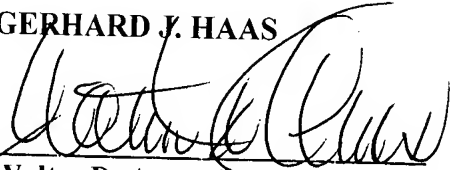
The prior art rejections are all dependent on the Japanese Application, either alone or in combination with other art, the Examiner being of the opinion that "...JP '332 is considered to provide motivation to use a hops composition as a wash or a dip...."⁵ As from the annexed Translation Certificate and the Japanese Application, itself, it will be apparent that such Application teaches away from rather than toward washing or dipping, it is submitted that the prior art rejections are no longer sustainable. Further reconsideration by the Examiner is respectfully requested.

⁴ Page 6 of the originally submitted, full translation, third paragraph.

⁵ Office Action (Final Rejection) mailed April 8, 2003, page 3, last two lines.

Respectfully submitted,

GERHARD J. HAAS



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Attorney for Applicant

Dated: July 3, 2003

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TRANSLATION CERTIFICATE

I, Takeo Ohashi, President, Ohashi High Technology Corporation, the Empire State Building, 350 Fifth Avenue, Suite 607, New York, NY 10118-6399, hereby declare that I have competent knowledge of the Japanese and English languages, and that I have reviewed the translation herein below of a paragraph on the tenth to twelfth lines of the upper right quadrant on page 5 of Japanese Laid-Open Patent Application Publication No. H1-172332 by Kenji Shibata, et. Al, as well as the translator's note herein below. I certify that the translation is an accurate representation of the aforementioned paragraph and that the translator's note is unbiased and accurate.

Translated Paragraph:

"The method of giving it is either oral or non-oral administration. As non-oral administration, intramuscular, intra stomach, transdermal, nasal and vein administration can be used."

Translator's note:

The word, transdermal, is used Interchangeably with transcutaneous. It means "through the skin" Examples of transdermal administration would be by syringe injection or the use of a medicated patch.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 1, 2003.

CERTIFIED by said Takeo Ohashi.

at 350 Fifth Avenue, Suite 607, New York, NY 10118

this 1st of July, 2003.

Takeo Ohashi, Ph.D.

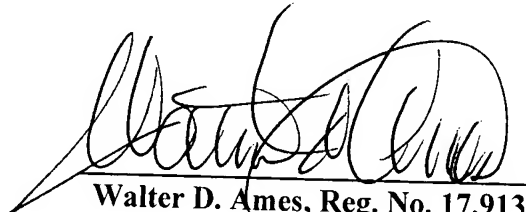
President



CERTIFICATE OF MAILING

It is hereby certified that on the 3rd day of July, 2003, the foregoing
Further Request for Reconsideration was deposited with the United States Postal
Service as first-class, postage-prepaid mail in an envelope addressed to:

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